



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 220413-0095]

RIN 0648-BL12

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 63

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This action proposes to approve and implement Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan. This rule proposes to set or adjust catch limits for 5 of the 20 multispecies (groundfish) stocks, adjust recreational measures for Georges Bank cod, and revise the default specifications process. This action is necessary to respond to updated scientific information and to achieve the goals and objectives of the fishery management plan. The proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available.

DATES: Comments must be received by *[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2021-0133, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA-NMFS-2021-

0133 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by us. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of Framework Adjustment 63, including the draft Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Act Analysis prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the Internet at: <https://www.nefmc.org/management-plans/northeast-multispecies> or <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Liz Sullivan, Fishery Policy Analyst, phone: 978-282-8493; e-mail: Liz.Sullivan@noaa.gov.

SUPPLEMENTARY INFORMATION:

Summary of Proposed Measures

This action would implement the management measures in Framework Adjustment 63 to the Northeast Multispecies Fishery Management Plan (FMP). The New England Fishery Management Council reviewed the proposed regulations and deemed them consistent with, and necessary to implement, Framework 63 in a March 8, 2022, letter from Council Chairman Eric Reid to Regional Administrator Michael

Pentony. Under the Magnuson-Stevens Act, we approve, disapprove, or partially approve measures that the Council proposes, based on consistency with the Act and other applicable law. We review proposed regulations for consistency with the fishery management plan, plan amendment, the Magnuson-Stevens Act and other applicable law, and publish the proposed regulations, solicit public comment, and promulgate the final regulations. We are seeking comments on the Council's proposed measures in Framework 63. Through Framework 63, the Council proposes to:

- Set shared U.S./Canada quotas for Georges Bank (GB) yellowtail flounder and eastern GB cod and haddock for fishing years 2022 and 2023;
- Set specifications, including catch limits, for five groundfish stocks: Gulf of Maine (GOM) cod (2022-2024), GB yellowtail flounder (2022-2023), and GB cod, GB haddock, and white hake (2022);
- Adjust recreational measures for GB cod;
- Grant the Regional Administrator authority to adjust recreational measures for GB cod in 2023 and 2024, and;
- Modify the current process for default specifications.

This action also proposes regulatory corrections that are not part of Framework 63, but that may be considered and implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are proposing these corrections in conjunction with the Framework 63 proposed measures for expediency purposes. These proposed corrections are described in **Regulatory Corrections under Secretarial Authority**.

Fishing Years 2022 and 2023 Shared U.S./Canada Quotas

Management of Transboundary Georges Bank Stocks

Eastern GB cod, eastern GB haddock, and GB yellowtail flounder are jointly managed with Canada under the United States/Canada Resource Sharing Understanding.

The Transboundary Management Guidance Committee (TMGC) is a government-industry committee made up of representatives from the United States and Canada. For historical information about the TMGC see: <https://www.bio.gc.ca/info/intercol/tmgc-cogst/index-en.php>. Each year, the TMGC recommends a shared quota for each stock based on the most recent stock information and the TMGC's harvest strategy. The TMGC's harvest strategy for setting catch levels is to maintain a low to neutral risk (less than 50 percent) of exceeding the fishing mortality limit for each stock. The harvest strategy also specifies that when stock conditions are poor, fishing mortality should be further reduced to promote stock rebuilding. The shared quotas are allocated between the United States and Canada based on a formula that considers historical catch (10-percent weighting) and the current resource distribution (90-percent weighting).

For GB yellowtail flounder, the Council's Scientific and Statistical Committee (SSC) also recommends an acceptable biological catch (ABC) for the stock. The ABC is typically used to inform the U.S. TMGC's discussions with Canada for the annual shared quota. Although the stock is jointly managed with Canada, and the TMGC recommends annual shared quotas, the Council may not set catch limits that would exceed the SSC's recommendation. The SSC does not recommend ABCs for eastern GB cod and haddock because they are management units of the total GB cod and haddock stocks. The SSC recommends overall ABCs for the total GB cod and haddock stocks. The shared U.S./Canada quota for eastern GB cod and haddock is included in these overall ABCs, and must be consistent with the SSC's recommendation for the total GB stocks.

2022 and 2023 U.S./Canada Quotas

The Transboundary Resources Assessment Committee conducted assessments for the three transboundary stocks in July 2021, and detailed summaries of these assessments can be found at: <https://www.nefsc.noaa.gov/assessments/trac/>. The TMGC met in September 2021 to recommend shared quotas for 2022 based on the updated assessments,

and the Council adopted the TMGC’s recommendations in Framework 63. Framework 63 proposes to set the same shared quotas for a second year (*i.e.*, for fishing year 2023) as placeholders, with the expectation that those quotas will be reviewed annually and new recommendations will be received from the TMGC. The proposed 2022 and 2023 shared U.S./Canada quotas, and each country’s allocation, are listed in Table 1.

Table 1 -- Proposed 2022 and 2023 Fishing Years U.S./Canada Quotas (mt, live weight) and Percent of Quota Allocated to Each Country

Quota	Eastern GB Cod	Eastern GB Haddock	GB Yellowtail Flounder
Total Shared Quota	571	14,100	200
U.S. Quota	160 (28 percent)	6,627 (47 percent)	122 (61 percent)
Canadian Quota	411 (72 percent)	7,473 (53 percent)	78 (39 percent)

The proposed 2022 U.S. quota for eastern GB cod would represent a 16.1-percent decrease compared to 2021; the proposed 2022 U.S. quota for eastern GB haddock and GB yellowtail flounder would represent 2-percent and 53-percent increases, respectively, compared to 2021. For a more detailed discussion of the TMGC’s 2022 catch advice, including a description of each country’s quota share, see the TMGC’s guidance document that will be posted at: <https://www.greateratlantic.fisheries.noaa.gov/>.

The regulations implementing the U.S./Canada Resource Sharing Understanding require deducting any overages of the U.S. quota for eastern GB cod, eastern GB haddock, or GB yellowtail flounder from the U.S. quota in the following fishing year. If catch information for the 2021 fishing year indicates that the U.S. fishery exceeded its quota for any of the shared stocks, we will reduce the respective U.S. quotas for the 2022 fishing year in a future management action, as close to May 1, 2022, as possible. If any fishery that is allocated a portion of the U.S. quota exceeds its allocation and causes an overage of the overall U.S. quota, the overage reduction would be applied only to that

fishery's allocation in the following fishing year. This ensures that catch by one component of the overall fishery does not negatively affect another component of the overall fishery.

Catch Limits for Fishing Years 2022-2024

Summary of the Proposed Catch Limits

Tables 2 through 11 show the proposed catch limits for the 2022-2024 fishing years. A brief summary of how these catch limits were developed is provided below. More details on the proposed catch limits for each groundfish stock can be found in Appendix II (Calculation of Northeast Multispecies Annual Catch Limits, FY 2022 – FY 2024) to the Framework 63 Environmental Assessment (see **ADDRESSES** for information on how to get this document).

Through Framework 63, the Council proposes to adopt catch limits for GOM cod for the 2022-2024 fishing years and for GB cod for the 2022 fishing year, based on stock assessments completed in 2021; a catch limit for white hake for fishing year 2022, based on the revised rebuilding plan implemented by Framework 61; and a catch limit for GB yellowtail flounder for fishing years 2022-2023. Framework 59 (85 FR 45794; July 30, 2020) previously set 2022 quotas for seven groundfish stocks based on assessments conducted in 2019, which would remain in place, with a small change to the U.S. ABC for GB haddock to reflect the 2022 TMGC recommendation for that stock. Framework 61 (86 FR 40353; July 28, 2021) previously set 2022-2023 quotas for the remaining nine groundfish stocks based on assessments conducted in 2020, and those would also remain in place. Table 2 provides an overview of which catch limits, if any, would change, as proposed in Framework 63, as well as when the stock was most recently assessed. Table 3 provides the percent change in the 2022 catch limit compared to the 2021 fishing year.

Table 2 -- Changes to Catch Limits, as Proposed in Framework 63

Stock	Most Recent Assessment	Proposed Change in Framework 63
GB Cod	2021	New 2022 ABC

GOM Cod	2021	New 2022-2024 ABC
GB Haddock	2019	New 2022 U.S. ABC
GOM Haddock	2019	No change: 2022 catch limits set by Framework 59
GB Yellowtail Flounder	2020	New 2022-2023 ABC
SNE/MA Yellowtail Flounder	2019	No change: 2022 catch limits set by Framework 59
CC/GOM Yellowtail Flounder	2019	No change: 2022 catch limits set by Framework 59
American Plaice	2019	No change: 2022 catch limits set by Framework 59
Witch Flounder	2019	No change: 2022 catch limits set by Framework 59
GB Winter Flounder	2020	No change: 2022-2023 catch limits set by Framework 61
GOM Winter Flounder	2020	No change: 2022-2023 catch limits set by Framework 61
SNE/MA Winter Flounder	2020	No change: 2022-2023 catch limits set by Framework 61
Redfish	2020	No change: 2022-2023 catch limits set by Framework 61
White Hake	2019	New 2022 ABC
Pollock	2019	No change: 2022 catch limits set by Framework 59
N. Windowpane Flounder	2020	No change: 2022-2023 catch limits set by Framework 61
S. Windowpane Flounder	2020	No change: 2022-2023 catch limits set by Framework 61
Ocean Pout	2020	No change: 2022-2023 catch limits set by Framework 61
Atlantic Halibut	2020	No change: 2022-2023 catch limits set by Framework 61
Atlantic Wolffish	2020	No change: 2022-2023 catch limits set by Framework 61

N = Northern; S = Southern

Table 3 -- Proposed Fishing Years 2022-2024 Overfishing Limits and Acceptable Biological Catches (mt, live weight)

Stock	2022		Percent change from 2021	2023		2024	
	OFL	U.S. ABC		OFL	U.S. ABC	OFL	U.S. ABC
GB Cod	UNK	343	-73.78	-	-	-	-
GOM Cod	724	551	0	853	551	980	551
GB Haddock	114,925	81,383	-2	-	-	-	-
GOM Haddock	14,834	11,526	-31	-	-	-	-
GB Yellowtail Flounder	UNK	122	53	UNK	122	-	-
SNE/MA Yellowtail Flounder	184	22	0	-	-	-	-
CC/GOM Yellowtail Flounder	1,116	823	0	-	-	-	-
American Plaice	3,687	2,825	-2	-	-	-	-
Witch Flounder	UNK	1,483	0	-	-	-	-
GB Winter Flounder	974	608	0	1,431	608	-	-
GOM Winter Flounder	662	497	0	662	497	-	-
SNE/MA Winter Flounder	1,438	456	0	1,438	456	-	-
Redfish	13,354	10,062	-1	13,229	9,967	-	-
White Hake	3,022	2,116	-1	-	-	-	-
Pollock	21,744	16,812	-24	-	-	-	-
N. Windowpane Flounder	UNK	160	0	UNK	160	-	-

S. Windowpane Flounder	513	384	0	513	384	-	-
Ocean Pout	125	87	0	125	87	-	-
Atlantic Halibut	UNK	101	0	UNK	101	-	-
Atlantic Wolffish	122	92	0	122	92	-	-

UNK = Unknown

Note: An empty cell indicates no OFL/ABC is adopted for that year. These catch limits would be set in a future action.

Overfishing Limits and Acceptable Biological Catches

The overfishing limit (OFL) is calculated to set the maximum amount of fish that can be caught in a year, without constituting overfishing. The ABC is typically set lower than the OFL to account for scientific uncertainty. For GB cod, GB haddock, and GB yellowtail flounder, the total ABC is reduced by the amount of the Canadian quota (see Table 1 for the Canadian and U.S. shares of these stocks). Although the TMGC recommendations were only for fishing year 2022, the portion of the shared quota allocated to Canada in fishing year 2022 was used to project U.S. ABCs for GB yellowtail for 2023. This avoids artificially inflating the U.S. ABC up to the total ABC for the 2023 fishing year. Because there are no proposed total ABCs for GB cod and GB haddock for fishing year 2023, there are no fishing year 2023 U.S. ABCs for these two stocks either, although there are proposed quotas for eastern GB cod and haddock (see **Fishing Years 2022 and 2023 Shared U.S./Canada Quotas**). The TMGC will make new recommendations for 2023, which would replace any quotas for these stocks set in this action. Additionally, although GB winter flounder, white hake, and Atlantic halibut are not jointly managed with Canada, there is some Canadian catch of these stocks. Because the total ABC must account for all sources of fishing mortality, expected Canadian catch of GB winter flounder (26 mt), white hake (39 mt), and Atlantic halibut (49 mt) is deducted from the total ABC. The U.S. ABC is the amount available to the U.S. fishery after accounting for Canadian catch (see Table 3). For stocks without Canadian catch, the U.S. ABC is equal to the total ABC.

The OFLs are currently unknown for GB cod, GB yellowtail flounder, witch flounder, northern windowpane flounder, and Atlantic halibut. For 2022, the SSC recommended maintaining the unknown OFL for GB yellowtail flounder and GB cod. Empirical stock assessments are used for these five stocks, and these assessments can no longer provide quantitative estimates of the status determination criteria, nor were appropriate proxies for stock status determination able to be developed. In the temporary absence of an OFL, in this and previous actions, we have considered recent catch data and estimated trends in stock biomass as an indication that the catch limits derived from ABCs are sufficiently managing fishing mortality at a rate that is preventing overfishing. For GB yellowtail flounder, the SSC noted that the fishery does not appear to be the main driver limiting stock recovery. However, the continued low stock biomass and poor recruitment for this stock warrant the maintenance of low catch levels. For GB cod, a majority of the SSC accepted the continued use of the “PlanBSmooth” approach for setting the ABC for GB cod, which results in a large decrease (approximately 57 percent) from the previously set ABC value, and a 37-percent decrease from the most recent 3-year average catch. This large reduction in the ABC for GB cod is anticipated to increase the probability of stock rebuilding. Based on these considerations, we have preliminarily determined that these ABCs are a sufficient limit for preventing overfishing and are consistent with the National Standards. This action does not propose any changes to the status determination criteria for these stocks.

Georges Bank Cod

The GB cod 2021 management track assessment followed the PlanBSmooth approach, using updated commercial fishery catch data through calendar year 2020 and updated research survey indices of abundance through 2021. While this approach does not allow biological reference points to be calculated, the output of the PlanBSmooth approach has been used as the basis of catch advice since the 2015 age-based updated

assessment was rejected by the peer review. At the October 25, 2021, SSC meeting, two applications of the PlanBsmooth approach were presented. In the first method, Plan B was applied with missing values for the 2020 spring and fall surveys, which were not conducted due to impacts of the COVID-19 health emergency. In the second method, values for the 2020 survey data were imputed based on averages of recent data. The results of the two methods were a slightly different catch multiplier (0.611 vs. 0.632, respectively) and recommended ABCs (729 mt vs. 754 mt). While a minority of the SSC advocated for an alternative proposal that used a ramp-down approach to setting the GB cod ABC for 2022-2024, the majority of the SSC endorsed the use of the PlanBsmooth as the best scientific information available on which to set catch advice and adopted the use of the second method with imputed survey data. The SSC recommended a 3-year constant ABC of 754 mt, which would represent a 57-percent decrease from the 2021 ABC value. Because a portion of the total ABC is allocated to Canada, the resulting U.S. ABC of 343 mt would be a 74-percent decrease from the 2021 U.S. ABC. The Council discussed both the SSC's recommendation and the opinion presented in the SSC's minority report, and ultimately decided to propose the SSC's recommended ABC of 754 mt, but for fishing year 2022 only. Framework 63 would not set an ABC for GB cod for 2023 or beyond, and the Council would need to propose an ABC in a future action.

Annual Catch Limits

Development of Annual Catch Limits

The U.S. ABC for each stock is divided among the various fishery components to account for all sources of fishing mortality. An estimate of catch expected from state waters and the other sub-component (*e.g.*, non-groundfish fisheries or some recreational groundfish fisheries) is deducted from the U.S. ABC. The remaining portion of the U.S. ABC is distributed to the fishery components that receive an allocation for the stock. Components of the fishery that receive an allocation have a sub-ACL set by reducing

their portion of the ABC to account for management uncertainty and are subject to accountability measures (AM) if they exceed their respective catch limit during the fishing year. For GOM cod and haddock only, the U.S. ABC is first divided between the commercial and recreational fisheries, before being further divided into sub-components and sub-ACLs. This process is described fully in Appendix II of the Framework 63 Environmental Assessment. Amendment 23, if approved, could remove the management uncertainty buffer for sectors, and the Amendment 23 proposed rule (87 FR 11014; February 28, 2022) provides additional information regarding the implementation of this potential change. However, the allocations in Framework 63 include the management uncertainty buffers.

Sector and Common Pool Allocations

For stocks allocated to sectors, the commercial groundfish sub-ACL is further divided into the non-sector (common pool) sub-ACL and the sector sub-ACL, based on the total vessel enrollment in sectors and the cumulative potential sector contributions (PSC) associated with those sectors. The sector and common pool sub-ACLs proposed in this action are based on preliminary fishing year 2022 sector rosters. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2022, to withdraw from a sector and fish in the common pool for the 2022 fishing year. In addition to the enrollment delay, all permits that change ownership after the roster deadline are able to join a sector (or change sector) through April 30, 2022.

Common Pool Total Allowable Catches

The common pool sub-ACL for each allocated stock (except for SNE/MA winter flounder) is further divided into trimester TACs. Table 7 summarizes the common pool trimester TACs proposed in this action.

Incidental catch TACs are also specified for certain stocks of concern (*i.e.*, stocks that are overfished or subject to overfishing) for common pool vessels fishing in the

special management programs (*i.e.*, special access programs (SAP) and the Regular B Days-at-Sea (DAS) Program), in order to limit the catch of these stocks under each program. Tables 8 through 11 summarize the proposed Incidental Catch TACs for each stock and the distribution of these TACs to each special management program.

Table 4 -- Proposed Catch Limits for the 2022 Fishing Year (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallo p Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GB Cod	330	244	238	6					11	75
GOM Cod	522	462	263	7.4	192				48	12
GB Haddock	77,302	75,382	74,090	1,292		1,514			0	406
GOM Haddock	10,873	10,690	6,922	134	3,634	107			38	38
GB Yellowtail Flounder	118	97	93	4.5			19	2.3	0.0	0.0
SNE/MA Yellowtail Flounder	21	16	12	3.2			2.0		0.2	3.3
CC/GOM Yellowtail Flounder	787	692	666	26					58	37
American Plaice	2,687	2,630	2,565	65					28	28
Witch Flounder	1,414	1,317	1,285	33					44	52
GB Winter Flounder	591	563	550	14					0	27
GOM Winter Flounder	482	281	260	21					194	7.5
SNE/MA Winter Flounder	441	288	254	34					21	132
Redfish	9,559	9,559	9,470	89					0	0
White Hake	2,011	1,990	1,971	19					11	11
Pollock	16,068	14,135	14,028	107					1,093	841
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors

Table 5 -- Proposed Catch Limits for the 2023 Fishing Year* (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	263	7.4	192				48	12
GB Yellowtail Flounder	118	97	93	4.5			19	2.3	0	0
GB Winter Flounder	591	563	550	14					0	27
GOM Winter Flounder	482	281	260	21					194	7.5
SNE/MA Winter Flounder	441	288	254	34					21	132
Redfish	9,469	9,469	9,381	88					0	0
N. Windowpane Flounder	150	108	na	108			31		0.8	10
S. Windowpane Flounder	371	43	na	43			129		23	177
Ocean Pout	83	50	na	50					0	33
Atlantic Halibut	97	73	na	73					20	3.5
Atlantic Wolffish	86	86	na	86					0	0

na: not allocated to sectors

* All other Northeast multispecies stocks not included in Table 4 do not have catch limits approved or proposed beyond fishing year 2022.

Table 6 -- Proposed Catch Limits for the 2024 Fishing Year* (mt, live weight)

Stock	Total ACL	Groundfish sub-ACL	Sector sub-ACL	Common Pool sub-ACL	Recreational sub-ACL	Midwater Trawl Fishery	Scallop Fishery	Small-Mesh Fisheries	State Waters sub-component	Other sub-component
	A to H	A+B+C	A	B	C	D	E	F	G	H
GOM Cod	522	462	263	7	192				48	12

* Framework 63 only proposes a fishing year 2024 catch limit for GOM cod.

Table 7 -- Proposed Fishing Years 2022-2024 Common Pool Trimester TACs (mt, live weight)

Stock	2022			2023			2024		
	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3	Trimester 1	Trimester 2	Trimester 3
GB Cod	1.7	2.1	2.3						
GOM Cod	3.6	2.4	1.3	3.6	2.4	1.3	3.6	2.4	1.3
GB Haddock	348.8	426.3	516.8						
GOM Haddock	36.2	34.9	63.0						
GB Yellowtail Flounder	0.8	1.3	2.3	0.8	1.3	2.3			
SNE/MA Yellowtail Flounder	0.7	0.9	1.6						
CC/GOM Yellowtail Flounder	15.0	6.9	4.5						
American Plaice	48.1	5.2	11.7						
Witch Flounder	18.0	6.5	8.2						
GB Winter Flounder	1.1	3.3	9.2	1.1	3.3	9.2			
GOM Winter Flounder	7.6	7.8	5.1	7.6	7.8	5.1			
Redfish	22.2	27.5	39.1	22.0	27.3	38.7			
White Hake	7.2	5.9	5.9						
Pollock	29.9	37.4	39.6						

Table 8 -- Proposed Common Pool Incidental Catch TACs for the 2022-2024 Fishing Years (mt, live weight)

Stock	Percentage of Common Pool sub- ACL	2022	2023	2024
GB Cod	1.68	0.10		
GOM Cod	1	0.07	0.07	0.07
GB Yellowtail Flounder	2	0.09	0.9	
CC/GOM Yellowtail Flounder	1	0.26		
American Plaice	5	3.25		
Witch Flounder	5	1.63		
SNE/MA Winter Flounder	1	0.34	0.34	

Table 9 -- Percentage of Incidental Catch TACs Distributed to Each Special Management Program

Stock	Regular B DAS Program (percent)	Eastern U.S./CA Haddock SAP (percent)
GB Cod	60	40
GOM Cod	100	n/a
GB Yellowtail Flounder	50	50
CC/GOM Yellowtail Flounder	100	n/a
American Plaice	100	n/a
Witch Flounder	100	n/a
SNE/MA Winter Flounder	100	n/a

Table 10 -- Proposed Fishing Years 2022-2024 Incidental Catch TACs for Each Special Management Program (mt, live weight)

Stock	Regular B DAS Program			Eastern U.S./Canada Haddock SAP		
	2022	2023	2024	2022	2023	2024
GB Cod	0.06			0.04		
GOM Cod	0.07	0.07	0.07	n/a	n/a	n/a
GB Yellowtail Flounder	0.04	0.04		0.04	0.04	
CC/GOM Yellowtail Flounder	0.26			n/a	n/a	n/a
American Plaice	3.25			n/a	n/a	n/a
Witch Flounder	1.63			n/a	n/a	n/a
SNE/MA Winter Flounder	0.34	0.34		n/a	n/a	n/a

Table 11 -- Proposed Fishing Years 2022-2024 Regular B DAS Program Quarterly Incidental Catch TACs (mt, live weight)

Stock	2022				2023				2024			
	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)	1st Quarter (13 percent)	2nd Quarter (29 percent)	3rd Quarter (29 percent)	4th Quarter (29 percent)
GB Cod	0.01	0.02	0.02	0.02								
GOM Cod	0.01	0.02	0.02	0.02	0.01	0.02	0.02	0.02	0.01	0.02	0.02	0.02
GB Yellowtail Flounder	0.006	0.013	0.013	0.013	0.01	0.01	0.01	0.01				
CC/GOM Yellowtail Flounder	0.03	0.08	0.08	0.08								
American Plaice	0.42	0.94	0.94	0.94								
Witch Flounder	0.21	0.47	0.47	0.47								
SNE/MA Winter Flounder	0.04	0.10	0.10	0.10	0.04	0.10	0.10	0.10				

Recreational Fishery Measures

The recreational fishery harvests GB cod, but there is no allocation to the recreational sector. A portion of the ABC is set aside for the catch in state waters (including both commercial and recreational vessels) and catch in Federal waters by other fisheries (including non-groundfish commercial vessels and recreational groundfish vessels). There are no AMs for the GB cod recreational fishery; an overage to the ACL, even if it results from catch by the recreational fishery, is paid back (pound-for-pound) by the commercial groundfish fishery.

Given the proposed reduction in the GB cod ABC, the Council has proposed setting a new GB cod recreational catch target of 75 mt, which would replace the current catch target of 138 mt. The Council used this catch target to set the proposed values of the state and other sub-components (see Appendix II of the EA).

Framework 63 would also adjust the current recreational measures for GB cod, in order to reduce mortality to stay below the GB cod recreational catch target. Combined with the reduction in catch target, these measures were developed to reduce mortality on GB cod and allow for the promotion of GB cod stock rebuilding. These measures would apply to both private and for-hire recreational vessels, and would remain in place unless modified.

Table 12 shows the current and proposed GB cod recreational measures.

Table 12 -- Current and Proposed Georges Bank Cod Recreational Management Measures

	Current	Proposed
Minimum Size	21 in (53.3 cm)	22 in (55.9 cm)
Maximum Size	None	28 in (71.1 cm)
Possession Limit	10 fish per person per day	5 fish per person per day
Closed Season	None	May 1 through July 31
Open Season	All year	August 1 through April 30

Past data show that setting a possession limit, increasing minimum size, and establishing a closed season are effective techniques for reducing recreational catch. While less common, a maximum size limit (often referred to as a “slot limit” when coupled with a

minimum size) can also increase the chance that large fish, which are more likely successful spawners, are released alive and are able to continue to spawn. Based on data from recent fishing years, it is estimated that the proposed measures would result in approximately 60 mt of catch. Given the variability in MRIP data and the lack of a bioeconomic model for GB cod to evaluate the potential behavioral effects of the proposed measures, there is uncertainty about the accuracy of that estimate for any given year.

To help prevent future overages of the GB cod ACL, Framework 63 proposes to grant the Regional Administrator authority to set recreational measures for fishing years 2023 and 2024 to prevent the catch target from being exceeded. After consultation with the Council, we would make any changes to recreational measures consistent with the Administrative Procedure Act.

Default Specifications Process

Framework 53 (80 FR 25110; May 1, 2015) established a mechanism for setting default catch limits in the event a future management action is delayed. If final catch limits have not been implemented by the start of a fishing year on May 1, then default catch limits are set at 35 percent of the previous year's catch limit, effective until July 31 of that fishing year, or when replaced by new catch limits, whichever happens first.

Framework 63 proposes to modify the default specifications process to increase the default limits to 75 percent of the previous year's catch limit, and extend the effective date through October 31 of that fishing year, or when replaced by new catch limits, whichever happens first. As implemented by Framework 53, if the default value is higher than the Council's recommended catch limit for the upcoming fishing year, the default catch limits will be equal to the Council's recommended catch limits for the applicable stocks for the upcoming fishing year. Additionally, there is no proposed change to the sector holdback provision. When specifications are in place at the start of the fishing year, a portion of each groundfish sector's quota is not allocated to the sector while NMFS determines whether

overages or other catch accounting issues occurred in the prior fishing year. Under the sector holdback provision, if a default catch limit is in place, sectors would not be subject to holdback at the beginning of the fishing year. As part of the proposed changes to the default specifications process, the Council recommended setting a second year TAC for eastern GB cod and haddock, with the expectation on that these would be replaced as a result of the annual TMGC process. This is more fully described in **Fishing Years 2022 and 2023 Shared U.S./Canada Quotas**.

Because most groundfish vessels are not able to fish if final catch limits have not been implemented, this measure was originally established to allow fishing to continue for a short interim period to minimize disruption to the groundfish fishery. The proposed modifications would particularly benefit seasonal fisheries that primarily operate in the early part of the fishing year, which would have access to a greater portion of their quota, while still ensuring that overfishing will not occur. In recent years, various factors have led to the groundfish framework actions not being implemented until close to the end of the current default period, and the potential for the catch limits to expire before new catch limits are set has led to disruptions and uncertainty for the industry. The addition of 3 months to the current expiration date of default specifications (October 31 vs July 31) retains a timeline for rulemaking while reducing the likelihood of having specifications for groundfish stocks expire. However, both the Council and NMFS intend for the annual specifications to be in place at, or as close as possible to, the start of the fishing year (May 1) each year.

Regulatory Corrections under Secretarial Authority

Framework 63 would reinstate the possession limit for the northern red hake stock, specified at § 648.86(d)(1)(vi), under our authority described in section 305(d) of the Magnuson-Stevens Act. Red hake is considered a small-mesh multispecies along with silver and offshore hake. Small-mesh multispecies are included as a part of the FMP; however, because the fishery is conducted with much smaller mesh it is managed separately from other

regulated NE multispecies through distinct actions specific to the small-mesh fishery. The 2015-2018 Small-Mesh Multispecies Specifications (80 FR 30379; May 28, 2015) reduced the possession limit of the northern red hake stock from 5,000 lb (2,268 kg) to 3,000 lb (1,361 kg) based on an approved Council recommendation. The possession limit for the northern red hake stock remains unchanged at 3,000 lb (1,361 kg) and Framework 63 would reinstate the possession limit that was inadvertently deleted through a prior rulemaking.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with Framework 63, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. In making the final determination, we will consider the data, views, and comments received during the public comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

This proposed rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule would have on small entities, including small businesses, and also determines ways to minimize these impacts. The IRFA includes this section of the preamble to this rule and analyses contained in Framework 63 and its accompanying EA/RIR/IRFA. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows.

Description of the Reasons Why Action by the Agency is Being Considered and Statement of the Objectives of, and Legal Basis for, this Proposed Rule

This action proposes management measures, including annual catch limits, for the multispecies fishery in order to prevent overfishing, rebuild overfished groundfish stocks, and achieve optimum yield in the fishery. A complete description of the action, why it is being considered, and the legal basis for this action are contained in Framework 63, and elsewhere in the preamble to this proposed rule, and are not repeated here.

Description and Estimate of the Number of Small Entities to Which this Proposed Rule Would Apply

The proposed rule would impact the recreational groundfish, Atlantic sea scallop, small mesh multispecies, Atlantic herring, and large-mesh non-groundfish fisheries. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs, even beyond those impacted by the proposed action. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act analysis, the ownership entities, not the individual vessels, are considered to be the regulated entities.

As of June 1, 2021, NMFS had issued 721 commercial limited-access groundfish permits associated with vessels (including those in confirmation of permit history, CPH), 649 party/charter groundfish permits, 705 limited access and general category Atlantic sea scallop permits, 734 small-mesh multispecies permits, 80 Atlantic herring permits, and 802 large-mesh non-groundfish permits (limited access summer flounder and scup permits). Therefore, this action potentially regulates 3,691 permits. When accounting for overlaps between fisheries, this number falls to 2,126 permitted vessels. Each vessel may be individually owned or part of a larger corporate ownership structure, and for RFA purposes, it is the ownership entity that is ultimately regulated by the proposed action. Ownership entities are identified on June 1st of each year based on the list of all permit numbers, for the most recent

complete calendar year, that have applied for any type of Greater Atlantic Federal fishing permit. The current ownership data set is based on calendar year 2020 permits and contains gross sales associated with those permits for calendar years 2018 through 2020.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. The determination as to whether the entity is large or small is based on the average annual revenue for the three years from 2018 through 2020. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including for-hire fishing (NAICS code 487210). These entities are classified as small businesses if combined annual receipts are not in excess of \$8.0 million for all its affiliated operations. As with commercial fishing businesses, the annual average of the three most recent years (2018-2020) is utilized in determining annual receipts for businesses primarily engaged in for-hire fishing.

Based on the ownership data, 1,696 distinct business entities hold at least one permit that the proposed action potentially regulates. All 1,696 business entities identified could be directly regulated by this proposed action. Of these 1,696 entities, 976 are commercial fishing entities, 281 are for-hire entities, and 439 did not have revenues (were inactive in 2020). Of the 976 commercial fishing entities, 967 are categorized as small entities and 9 are categorized as large entities, per the NMFS guidelines. Furthermore, 579 of these commercial fishing entities held limited access groundfish permits, with 577 of these entities being classified as small businesses and 2 of these entities being classified as large businesses. All 281 for-hire entities are categorized as small businesses.

Description of the Projected Reporting, Record-Keeping, and Other Compliance

Requirements of this Proposed Rule

The proposed action does not contain any new collection-of-information requirements under the Paperwork Reduction Act (PRA).

Federal Rules Which May Duplicate, Overlap, or Conflict with this Proposed Rule

The proposed action does not duplicate, overlap, or conflict with any other Federal rules.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The economic impacts of each proposed measure are discussed in more detail in sections 6.5 and 7.12 of the Framework 63 Environmental Assessment and are not repeated here. For the updated groundfish specifications and adjustments to the GB cod recreational measures, the No Action alternative was the only other alternative considered by the Council. There are no significant alternatives that would minimize the economic impacts. The proposed action is predicted to generate \$73.3 million in gross revenues on the sector portion of the commercial groundfish trips, which is \$2.2 million less than No Action, but falls within the recent historical range. Small entities engaged in common pool groundfish fishing may be negatively impacted by the proposed action as well. Likewise, small entities engaged in the recreational groundfish fishery are also likely to be negatively impacted. These negative impacts for both commercial and recreational groundfish entities are driven primarily by a substantial decline in the ACL for GB cod for fishing year 2022. While this decline is expected to result in short-term negative impacts, decreased GB cod catch in fishing year 2022 is expected to yield long-term positive impacts through stock rebuilding.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping, and reporting requirements.

Dated: April 13, 2022

Samuel D. Rauch, III

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, revise paragraph (k)(16)(v) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * *

(16) * * *

(v) *Size limits.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout that are smaller than the minimum fish sizes or larger than maximum fish sizes specified in § 648.89(b)(1) and (b)(3).

* * * * *

3. In § 648.86 add paragraph (d)(1)(vi) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(vi) *Possession of northern red hake.* Vessels participating in the small-mesh multispecies fishery and fishing on the northern red hake stock, defined as statistical areas 464-465, 467, 511-515, 521-522, and 561, may possess and land no more than 3,000 lb 91,361 kg) of red hake when fishing in the GOM/GB Exemption area, as described in § 648.80(a)(17).

* * * * *

4. Amend § 648.89 by revising paragraph (b) introductory text, paragraphs (b)(1), Table 2 to paragraph (c), Table 3 to paragraph (c), and (g), to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(b) *Recreational minimum and maximum fish sizes -*

(1) *Minimum and maximum fish sizes.* Unless further restricted under this section, persons aboard charter or party boats permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved sector operations plan, and private recreational fishing vessels may not possess fish in or from the EEZ that are smaller than the minimum fish sizes or larger than the maximum fish sizes, measured in total length, as follows:

Table 1 to Paragraph (b)(1)

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Cod:				
Inside GOM Regulated Mesh Area ¹	21	53.3	N/A	N/A
Outside GOM Regulated Mesh Area ¹	22	55.9	28	71.1
Haddock:				
Inside GOM Regulated Mesh Area ¹	17	43.2	N/A	N/A
Outside GOM Regulated Mesh Area ¹	18	45.7	N/A	N/A
Pollock	19	48.3	N/A	N/A
Witch Flounder (gray sole)	14	35.6	N/A	N/A
Yellowtail Flounder	13	33.0	N/A	N/A
American Plaice (dab)	14	35.6	N/A	N/A
Atlantic Halibut	41	104.1	N/A	N/A
Winter Flounder (black back)	12	30.5	N/A	N/A

Species	Minimum size		Maximum size	
	Inches	cm	Inches	cm
Redfish	9	22.9	N/A	N/A

¹ GOM Regulated Mesh Area specified in § 648.80(a).

* * * * *

(c) * * *

(1) * * *

(i) * * *

Table 2 to Paragraph (c)

Stock	Open season	Possession limit	Closed season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 15-30, April 1-14	1	April 15-September 14, October 1-March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N Windowpane Flounder	Closed	No retention	All Year
S Windowpane Flounder	Closed	No retention	All Year
Ocean Pout	Closed	No retention	All Year
Atlantic Halibut	See paragraph (c)(3) of this section		
Atlantic Wolffish	Closed	No retention	All Year

* * * * *

(2) * * *

Table 3 to Paragraph (c)

Species	Open season	Possession limit	Closed season
GB Cod	August 1-April 30	5	May 1-July 31
GOM Cod	September 8-October 7, April 1-14	1	April 15-September 7, October 8-March 31
GB Haddock	All Year	Unlimited	N/A
GOM Haddock	May 1-February 28 (or 29), April 1-30	15	March 1-March 31
GB Yellowtail Flounder	All Year	Unlimited	N/A
SNE/MA Yellowtail Flounder	All Year	Unlimited	N/A
CC/GOM Yellowtail Flounder	All Year	Unlimited	N/A
American Plaice	All Year	Unlimited	N/A
Witch Flounder	All Year	Unlimited	N/A
GB Winter Flounder	All Year	Unlimited	N/A
GOM Winter Flounder	All Year	Unlimited	N/A
SNE/MA Winter Flounder	All Year	Unlimited	N/A
Redfish	All Year	Unlimited	N/A
White Hake	All Year	Unlimited	N/A
Pollock	All Year	Unlimited	N/A
N Windowpane Flounder	Closed	No retention	All Year
S Windowpane Flounder	Closed	No retention	All Year
Ocean Pout	Closed	No retention	All Year
Atlantic Halibut	See Paragraph (c)(3) of this section		
Atlantic Wolffish	Closed	No retention	All Year

* * * * *

(g) *Regional Administrator authority for Georges Bank cod recreational measures.*

For the 2023 and 2024 fishing years, the Regional Administrator, after consultation with the NEFMC, may adjust recreational measures for Georges Bank cod to prevent the recreational fishery from exceeding the annual catch target as determined by the NEFMC. Appropriate measures, including adjustments to fishing seasons, minimum fish sizes, or possession limits,

may be implemented in a manner consistent with the Administrative Procedure Act, with the final measures published in the **Federal Register** prior to the start of the fishing year when possible. Separate measures may be implemented for the private and charter/party components of the recreational fishery. Measures in place in fishing year 2024 will be in effect beginning in fishing year 2025, and will remain in effect until they are changed by a Framework Adjustment or Amendment to the FMP, or through an emergency action.

* * * * *

5. In § 648.90, revise paragraph (a)(3)(i) and paragraph (a)(4)(i) introductory text to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(a) * * *

(3) * * *

(i) Unless otherwise specified in this paragraph (a)(3), if final specifications are not published in the **Federal Register** for the start of a fishing year, as outlined in paragraph (a)(4) of this section, specifications for that fishing year shall be set at 75 percent of the previous year's specifications for each NE multispecies stock, including the U.S./Canada shared resources, for the period of time beginning on May 1 and ending on October 31, unless superseded by the final rule implementing the current year's specifications.

* * * * *

(4) * * *

(i) *ABC/ACL recommendations.* As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as

described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(6) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components for each of the next 2 years as part of the annual process described in this paragraph (a)(4) and § 648.85(a)(2).

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